

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

United States Court of Appeals
Fifth Circuit

FILED

June 21, 2011

Lyle W. Cayce
Clerk

No. 10-11213
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

JOEL ARPON,

Defendant-Appellant

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 4:06-CR-179-1

Before JONES, Chief Judge, and STEWART and SOUTHWICK, Circuit Judges.

PER CURIAM:*

Appealing the judgment in a criminal case, Joel Arpon presents arguments that he concedes are foreclosed by *United States v. Brown*, 920 F.2d 1212, 1216-17 (5th Cir. 1991), *abrogated on other grounds by United States v. Candia*, 454 F.3d 468, 472-73 (5th Cir. 2006), in which we held that a district court may order a term of imprisonment to run consecutively to an unimposed state sentence. Arpon further concedes that his remaining arguments are foreclosed as this court has repeatedly held that a sentencing judge may find by a preponderance

* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

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of the evidence all the facts necessary to the determination of a sentencing guidelines range. *See, e.g., United States v. Rhine*, 583 F.3d 878, 891 (5th Cir. 2009); *United States v. Stevens*, 487 F.3d 232, 245-46 (5th Cir. 2007); *United States v. Johnson*, 445 F.3d 793, 798 (5th Cir. 2006). The Government's motion for summary affirmance is GRANTED, the Government's alternative motion for an extension of time to file a brief is DENIED, and the judgment of the district court is AFFIRMED.